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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/032,261  | 12/20/2001  | Stein A. Lundby      | PA020022            | 6518             |
| 23696   | 7590        | 07/27/2004           | EXAMINER            |                  |
| Qualcomm Incorporated<br>Patents Department<br>5775 Morehouse Drive<br>San Diego, CA 92121-1714 |             |                      | CRAVER, CHARLES R   |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |
|   |             |                      | 2682                | /0               |
| DATE MAILED: 07/27/2004   |             |                      |                     |                  |

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                              |                     |  |
|------------------------------|------------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b>       | <b>Applicant(s)</b> |  |
|                              | 10/032,261                   | LUNDBY, STEIN A.    |  |
|                              | Examiner<br>Charles R Craver | Art Unit<br>2682    |  |

**— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —**  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 05 March 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-5,8-14 and 17-22 is/are rejected.
- 7) Claim(s) 5,6,15 and 16 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 20 December 2001 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |  |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)              |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 6) <input type="checkbox"/> Other: _____.  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 9-14 and 17-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Mahany, US Pat 5,862,171.

**Claims 1 and 21:** Mahany discloses a wireless communication system (FIG 8) with a remote station for triggering transmission of parameters from a base station (col 1 line 52-col 2 line 5), comprising

inherently, a processing element for executing instructions stored in a memory, for determining if a stored set of parameters (col 2 lines 20-48) is current, and if so, decoding a packet, and if not, transmitting a re-transmission request on a reverse link to the base station (col 19 line 42-col 20 line 25). **Claims 2-4:** Mahany discloses that the reverse channel is for ack signals (col.19 lines 42-53). **Claim 5:** Mahany discloses that the reverse channel may be used to dictate channel quality (col 15 line 48-col 16 line 40), which is read as a CQI channel. **Claim 9:** Mahany discloses that the transmission parameters may be updated by an unsuccessful attempt to receive data (col 15 lines 52-64).

**Claim 10:** Mahany discloses a wireless communication system (FIG 8) with a remote station for triggering transmission of parameters from a base station (col 1 line 52-col 2 line 5), comprising in the base station

inherently, a processing element for executing instructions stored in a memory, for transmitting control messages (parameters) to the mobile, and receiving a re-transmission signal from the mobile on a reverse link indicating that a stored set of parameters (col 2 lines 20-48) is not current, and re-transmitting a control message with parameters to be updated, as well as transmitting a data packet (col 19 line 42-col 20 line 25). **Claims 11-13:** Mahany discloses that the reverse channel is for ack signals (col 19 lines 42-53). **Claim 14:** Mahany discloses that the reverse channel may be used to dictate channel quality (col 15 line 48-col 16 line 40), which is read as a CQI channel.

**Claims 17, 18 and 22:** claims 17, 18 and 22 recite the inherent method performed by the apparatus of claims 1 and 10, respectively, and as such are rejected for the same reasoning set forth above.

**Claims 19 and 20:** Mahany discloses a wireless communication system (FIG 8) with a remote station for triggering transmission of parameters from a base station (col 1 line 52-col 2 line 5), comprising

in the BS, means for transmitting control messages (parameters) to the mobile, and monitoring for a re-transmission signal from the mobile on a reverse link indicating that a stored set of parameters (col 2 lines 20-48) is not current,

means in the MS for determining if a stored set of parameters (col 2 lines 20-48) is current, and if so, decoding a packet, and if not, transmitting said re-transmission request on a reverse link to the base station, and thus re-transmitting a control message with parameters to be updated fro the BS to the MS, as well as transmitting a data packet (col 19 line 42-col 20 line 25).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mahany as applied to claim 1 above, and further in view of Willey, US Pat 6,505,058.

Mahany discloses applicant's invention of claim 1 above, but fails to disclose handoff.

Willey discloses an analogous art, that is, a mobile communication system wherein transmission parameters may be updated by the mobile station (col 2 lines 4-28), wherein such may be accomplished after a handover is performed (col 1 lines 14-35).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to add such a feature to Mahany, as Mahany discloses the use of

multiple base stations, and Willey discloses that updating the parameters after a handover ensures that said parameters are always up-to-date.

***Allowable Subject Matter***

Claims 6, 7, 15 and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

Claims 5, 6, 15 and 16 teach towards a wireless communication system and method with a remote station for triggering transmission of parameters from a base station comprising means for executing instructions stored in a memory, for determining if a stored set of parameters is current, and if so, decoding a packet, and if not, transmitting a re-transmission request on a CQI reverse link to the base station wherein the request is carried by the fifth bit of one or more CQI symbols.

***Response to Arguments***

Applicant's arguments filed 3-5-04 have been fully considered but they are not persuasive.

Regarding Mahany and rejections under 35 USC 102(b) therefor, the examiner confirms said rejections noted above under Mahany. Mahany discloses a system whereby a mobile station may determine that its parameters are not current, and

request a switch to new parameters which are. Mahany states that the mobile unit sends a request to the BS to change parameters, after which the BS sends an ACK message which causes the mobile to change parameters (col 19 lines 46-58). Applicant implies that Mahany teaches that the parameter change is at the BS only, by citing col 19 lines 42-52, but appears to ignore the following citation showing that the MS communicates with the BS via ACK messages to change its own parameters by two-way communication, like in the instant invention. Regarding Mahany and rejections under 35 USC 103(a), since applicant relies on the arguments above, please see the above paragraph.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**Or faxed to:**

(703) 872-9314 for both formal and informal/draft communications, labeled  
as such.

Hand delivered responses should be brought to Crystal Park II, 2121  
Crystal Drive, Arlington VA, sixth floor (receptionist).

Any inquiry concerning this or earlier communications from the examiner should  
be directed to examiner Charles Craver at (703) 305-3965.

If attempts to reach the examiner are unsuccessful, the examiner's supervisor,  
Vivian Chin, can be reached at (703) 308-6739.

Any inquiry of a general nature or relating to the status of this application should  
be directed to the Group receptionist at (703) 305-4700.

CC  
CHARLES CRAVER  
PATENT EXAMINER

C.Craver

July 26, 2004